

Union Calendar No. 220

111TH CONGRESS
1ST SESSION

H. R. 1147

[Report No. 111-375]

To implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 2009

Mr. DOYLE (for himself, Mr. TERRY, Ms. ESHOO, Ms. ZOE LOFGREN of California, Mr. WILSON of South Carolina, Ms. KILPATRICK of Michigan, Mr. HASTINGS of Florida, Ms. MOORE of Wisconsin, Mr. PAUL, Mr. BRADY of Pennsylvania, Mr. TIM MURPHY of Pennsylvania, Ms. SCHWARTZ, Mr. PAYNE, Mr. HINOJOSA, Mr. JOHNSON of Illinois, Mr. DELAHUNT, Mr. CAPUANO, Mrs. McMORRIS RODGERS, Mrs. BLACKBURN, and Ms. BALDWIN) introduced the following bill; which was referred to the Committee on Energy and Commerce

DECEMBER 14, 2009

Additional sponsors: Mr. FORTENBERRY, Mr. CLAY, Mr. INSLEE, Mr. FRANK of Massachusetts, Mr. LATHAM, Mr. CARDOZA, Mr. MURTHA, Mr. LOEBSACK, Mr. TONKO, Mr. MCGOVERN, Mr. OLVER, Mr. SERRANO, Mr. FARR, Mr. ENGEL, Mr. MASSA, Mr. CLEAVER, Ms. SHEA-PORTER, Mr. HINCHEY, Mr. DUNCAN, Mr. COHEN, Ms. LEE of California, Mr. RANGEL, Mr. LEWIS of Georgia, Mrs. MCCARTHY of New York, Mr. MCNERNEY, Mr. GUTIERREZ, Mr. FILNER, Ms. CLARKE, Mr. McDERMOTT, Mr. HONDA, Ms. SCHAKOWSKY, Ms. VELÁZQUEZ, Mr. TOWNS, Mrs. MALONEY, Ms. ROYBAL-ALLARD, Mr. HILL, Ms. DEGETTE, Mr. WELCH, Mr. DEAL of Georgia, Mr. ROTHMAN of New Jersey, Mr. AKIN, Ms. BORDALLO, Mr. BARTLETT, Mr. CUMMINGS, Mr. SMITH of Nebraska, Mr. HARE, Mr. KILDEE, Mrs. NAPOLITANO, Mr. TIERNEY, Mr. STARK, Mr. FATTAH, Mr. BACA, Mr. CONYERS, Mr. FOSTER, Mr. CARNEY, Mr. KUCINICH, Mr. JACKSON of Illinois, Mr. BISHOP of New York, Ms. HARMAN, Ms. JACKSON-LEE of Texas, Ms. MATSUI, Mrs. DAVIS of California, Mr. REYES, Mrs. CHRISTENSEN, Ms. SLAUGHTER, Mr. KING of New York, and Ms. HIRONO

DECEMBER 14, 2009

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on February 24, 2009]

A BILL

To implement the recommendations of the Federal Communications Commission report to the Congress regarding low-power FM service.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Local Community Radio*
5 *Act of 2009”.*

6 **SEC. 2. FINDINGS.**

7 *Congress finds the following:*

8 *(1) The passage of the Telecommunications Act*
9 *of 1996 led to increased consolidation of ownership in*
10 *the radio industry.*

11 *(2) At a hearing before the Committee on Com-*
12 *merce, Science, and Transportation of the Senate on*
13 *June 4, 2003, all 5 members of the Federal Commu-*
14 *nications Commission testified that there has been, in*
15 *at least some local radio markets, too much consolida-*
16 *tion.*

17 *(3) In part due to consolidation of media owner-*
18 *ship, there have been strong financial incentives for*
19 *some companies to reduce local programming and*
20 *rely instead on syndicated programming produced for*
21 *hundreds of stations, though noncommercial edu-*
22 *cational radio stations, including FM translator sta-*
23 *tions, currently provide important local service, as do*
24 *many commercial radio stations. A renewal of com-*
25 *mitment to localism—local operations, local research,*

1 *local management, locally originated programming,*
2 *local artists, and local news and events—would bol-*
3 *ster radio’s service to the public.*

4 *(4) Local communities have sought to launch*
5 *radio stations to meet their local needs. However, due*
6 *in part to the scarce amount of spectrum available*
7 *and the high cost of buying and running a large sta-*
8 *tion, many local communities are unable to establish*
9 *a radio station.*

10 *(5) In 2003, the average cost to acquire a com-*
11 *mercial radio station was more than \$2,500,000.*

12 *(6) In January 2000, the Federal Communica-*
13 *tions Commission authorized a new, affordable com-*
14 *munity radio service called “low-power FM”, or*
15 *“LPFM”, to “enhance locally focused community-ori-*
16 *ented radio broadcasting”.*

17 *(7) Through the creation of LPFM, the Federal*
18 *Communications Commission sought to “create op-*
19 *portunities for new voices on the airwaves and to*
20 *allow local groups, including schools, churches, and*
21 *other community-based organizations, to provide pro-*
22 *gramming responsive to local community needs and*
23 *interests”.*

24 *(8) The Federal Communications Commission*
25 *made clear that the creation of LPFM would not com-*

1 *promise the integrity of the FM radio band by stat-*
2 *ing, “We are committed to creating a low-power FM*
3 *radio service only if it does not cause unacceptable*
4 *interference to existing radio service.”.*

5 *(9) Currently, FM translator stations can oper-*
6 *ate on the second- and third-adjacent channels to full-*
7 *power radio stations, up to an effective radiated*
8 *power of 250 watts, pursuant to part 74 of title 47,*
9 *Code of Federal Regulations, using the very same*
10 *transmitters that LPFM stations will use. The Fed-*
11 *eral Communications Commission based its LPFM*
12 *rules on the actual performance of these translators,*
13 *which already operate without undue interference to*
14 *FM stations.*

15 *(10) Small rural broadcasters were particularly*
16 *concerned about a lengthy and costly LPFM inter-*
17 *ference complaint process. Therefore, in September*
18 *2000, the Federal Communications Commission cre-*
19 *ated a process to address interference complaints re-*
20 *garding LPFM stations on an expedited basis.*

21 *(11) In December 2000, Congress delayed the full*
22 *implementation of LPFM until the Federal Commu-*
23 *nications Commission commissioned and reviewed an*
24 *independent engineering study. This action was due*

1 to some broadcasters' concerns that LPFM service
2 would cause interference in the FM radio band.

3 (12) The Federal Communications Commission
4 granted licenses to over 800 LPFM stations despite
5 the congressional action. These stations are currently
6 on the air and are run by local government agencies,
7 groups promoting arts and education to immigrant
8 and indigenous populations, artists, schools, religious
9 organizations, environmental groups, organizations
10 promoting literacy, and many other civically oriented
11 organizations.

12 (13) After 2 years and the expenditure of
13 \$2,193,343 in taxpayer dollars, the independent engi-
14 neering study commissioned by the Federal Commu-
15 nications Commission concluded that concerns about
16 interference on third-adjacent channels were unwar-
17 ranted.

18 (14) The Federal Communications Commission
19 issued a report to Congress on February 19, 2004,
20 which stated that "Congress should readdress this
21 issue and modify the statute to eliminate the third-
22 adjacent channel distance separation requirement for
23 LPFM stations."

24 (15) On November 27, 2007, the Federal Com-
25 munications Commission again unanimously af-

1 *firmed LPFM, stating in a news release about the*
2 *adoption of the Low-Power FM Third Report and*
3 *Order and Second Notice of Proposed Rulemaking*
4 *that the Federal Communications Commission rec-*
5 *ommends “to Congress that it remove the requirement*
6 *that LPFM stations protect full-power stations oper-*
7 *ating on third-adjacent channels”. Until the date of*
8 *enactment of this Act, Congress had not acted upon*
9 *that recommendation.*

10 (16) *Minorities represent almost a third of the*
11 *population of the United States. However, according*
12 *to the Federal Communications Commission’s most*
13 *recent Form 323 data on the race and gender of full-*
14 *power, commercial broadcast licensees, minorities own*
15 *only 7 percent of all local television and radio sta-*
16 *tions. Women represent more than half of the popu-*
17 *lation but own only 6 percent of all local television*
18 *and radio stations. LPFM stations, while not a solu-*
19 *tion to the overall inequalities in minority and female*
20 *broadcast ownership, provide an additional oppor-*
21 *tunity for underrepresented communities to operate a*
22 *station and offer local communities a greater diver-*
23 *sity of viewpoints and culture.*

24 (17) *LPFM stations have proven to be a vital*
25 *source of information during local or national emer-*

1 *gencies. Out of the few stations that were able to stay*
2 *on the air during Hurricane Katrina, several were*
3 *LPFM stations. In Bay St. Louis, Mississippi, low-*
4 *power FM station WQRZ remained on the air during*
5 *Hurricane Katrina and served as the Emergency Op-*
6 *erations Center for Hancock County. After Hurricane*
7 *Katrina, when thousands of evacuees temporarily*
8 *housed at the Houston Astrodome were unable to hear*
9 *over the loudspeakers information about the avail-*
10 *ability of food and ice, the location of Federal Emer-*
11 *gency Management Agency representatives, and the*
12 *whereabouts of missing loved ones, volunteers handed*
13 *out thousands of transistor radios and established an*
14 *LPFM station outside of the Astrodome to broadcast*
15 *such information.*

16 **SEC. 3. AMENDMENT.**

17 *Section 632 of the Departments of Commerce, Justice,*
18 *and State, the Judiciary, and Related Agencies Appropria-*
19 *tions Act, 2001 (Public Law 106–553; 114 Stat. 2762A–*
20 *111), is amended to read as follows:*

21 *“SEC. 632. (a) The Federal Communications Commis-*
22 *sion shall modify the rules authorizing the operation of low-*
23 *power FM radio stations, as proposed in MM Docket No.*
24 *99–25, to—*

1 “(1) prescribe protection for co-channels and
2 *first- and second-adjacent channels; and*

3 “(2) prohibit any applicant from obtaining a
4 *low-power FM license if the applicant has engaged in*
5 *any manner in the unlicensed operation of any sta-*
6 *tion in violation of section 301 of the Communica-*
7 *tions Act of 1934 (47 U.S.C. 301).*

8 “(b) Any license that was issued by the Commission
9 *to a low-power FM station prior to the date on which the*
10 *Commission modifies its rules as required by subsection (a)*
11 *and that does not comply with such modifications shall be*
12 *invalid.”.*

13 **SEC. 4. MINIMUM DISTANCE SEPARATION REQUIREMENTS.**

14 *The Federal Communications Commission shall mod-*
15 *ify its rules to eliminate third-adjacent minimum distance*
16 *separation requirements between—*

17 (1) *low-power FM stations; and*

18 (2) *full-service FM stations, FM translator sta-*
19 *tions, and FM booster stations.*

20 **SEC. 5. PROTECTION OF RADIO READING SERVICES.**

21 *The Federal Communications Commission shall pro-*
22 *vide third-adjacent channel protection for full-power non-*
23 *commercial FM stations and noncommercial FM translator*
24 *and booster stations that broadcast radio reading services*

1 *via an analog subcarrier frequency from potential low-*
2 *power FM station interference.*

3 **SEC. 6. ENSURING AVAILABILITY OF SPECTRUM FOR LOW-**
4 **POWER FM STATIONS.**

5 *The Federal Communications Commission, when li-*
6 *censing FM translator and low-power FM stations, shall*
7 *ensure—*

8 *(1) that licenses are available to both FM trans-*
9 *lator stations and low-power FM stations; and*

10 *(2) that such decisions are made based on the*
11 *needs of the local community.*

12 **SEC. 7. PROTECTION OF TRANSLATOR INPUT SIGNALS.**

13 *The Federal Communications Commission shall mod-*
14 *ify its rules to address the potential for predicted inter-*
15 *ference to FM translator input signals on third-adjacent*
16 *channels set forth in section 2.7 of the technical report enti-*
17 *tled “Experimental Measurements of the Third-Adjacent*
18 *Channel Impacts of Low-Power FM Stations, Volume*
19 *One—Final Report (May 2003)”.*

20 **SEC. 8. ENSURING EFFECTIVE REMEDIATION OF INTER-**
21 **ERENCE.**

22 *The Federal Communications Commission shall mod-*
23 *ify the interference complaint process described in section*
24 *73.810 of its rules (47 CFR 73.810) as follows:*

1 (1) *For a period of one year after a new low-*
2 *power FM station is constructed on a third-adjacent*
3 *channel, the low-power FM station shall be required*
4 *to broadcast periodic announcements that alert lis-*
5 *teners that interference that they may be experiencing*
6 *could be the result of the operation of the new low-*
7 *power FM station on a third-adjacent channel and*
8 *shall instruct affected listeners to contact the low-*
9 *power FM station to report any interference. The*
10 *Federal Communications Commission shall require*
11 *all newly constructed low-power FM stations on*
12 *third-adjacent channels to—*

13 (A) *notify the Federal Communications*
14 *Commission and all affected stations on third-*
15 *adjacent channels of interference complaints; and*

16 (B) *cooperate in addressing any such inter-*
17 *ference.*

18 (2) *Low-power FM stations on third-adjacent*
19 *channels shall be required to address complaints of*
20 *interference within the protected contour of an af-*
21 *fected station and shall be encouraged to address all*
22 *other interference complaints, including complaints to*
23 *the Federal Communications Commission based on*
24 *interference to a full-service FM station, an FM*
25 *translator station, or an FM booster station by the*

1 *transmitter site of a low-power FM station on a*
2 *third-adjacent channel at any distance from the full-*
3 *service FM station, FM translator station, or FM*
4 *booster station.*

5 *(3) To the extent possible, the Federal Commu-*
6 *nications Commission shall grant low-power FM sta-*
7 *tions on third-adjacent channels the technical flexi-*
8 *bility to remediate interference through the colocation*
9 *of the transmission facilities of the low-power FM sta-*
10 *tion and any stations on third-adjacent channels.*

11 *(4) The Federal Communications Commission*
12 *shall—*

13 *(A) permit the submission of informal evi-*
14 *dence of interference, including any engineering*
15 *analysis that an affected station may commis-*
16 *sion;*

17 *(B) accept complaints based on interference*
18 *to a full-service or FM translator station by the*
19 *transmitter site of a low-power FM station on a*
20 *third-adjacent channel at any distance from the*
21 *full-service or FM translator station; and*

22 *(C) accept complaints of interference to mo-*
23 *bile reception.*

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